

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1758-PWS-E **TCEQ ID:** RN101384212 **CASE NO.:** 34873
RESPONDENT NAME: City of Waco

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Waco Public Water Supply, 425 Franklin Avenue, Waco, McLennan County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2004-0295-MLM-E.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 31, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 20px;">TCEQ Attorney/SEP Coordinator: None</p> <p style="margin-left: 20px;">TCEQ Enforcement Coordinator: Ms. Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1482; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171</p> <p style="margin-left: 20px;">Respondent: The Honorable Virginia Dupuy, Mayor, City of Waco, P.O. Box 2570, Waco, Texas 76702</p> <p style="margin-left: 20px;">Mr. Richard B. Garrett P.E., Utility Director, City of Waco, P.O. Box 2570, Waco, Texas 76702</p> <p style="margin-left: 20px;">Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 27, 2007</p> <p>Date of NOV/NOE Relating to this Case: October 19, 2007 (NOE)</p> <p>Background Facts: This was a follow-up investigation to an unscheduled investigation conducted on August 7, 2007, which found disinfectant residual violations. The same violations were documented during the September 27, 2007 investigation.</p> <p>WATER</p> <p>Failed to maintain a free chlorine residual of 0.2 milligrams per liter ("mg/L") or 0.5 mg/L of chloramine throughout the distribution system at all times [30 TEX. ADMIN. CODE § 290.110(b)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p>	<p>Total Assessed: \$322</p> <p>Total Deferred: \$64 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$258</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, begin maintaining a minimum free chlorine residual of 0.2 mg/L or 0.5 mg/L of chloramine throughout the distribution system at all times; and</p> <p>b. Within 30 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): PWS ID No. 1550008



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision September 19, 2007

TCEQ

DATES

Assigned
PCW22-Oct-2007
26-Oct-2007

Screening

26-Oct-2007

EPA Due

RESPONDENT/FACILITY INFORMATION

 Respondent City of Waco
 Reg. Ent. Ref. No. RN101384212
 Facility/Site Region 9-Waco

Major/Minor Source Major

CASE INFORMATION

 Enf./Case ID No. 34873
 Docket No. 2007-1758-PWS-E
 Media Program(s) Public Water Supply
 Multi-Media

 No. of Violations 1
 Order Type 1660
 Enf. Coordinator Andrea Linson-Mgbeoduru
 EC's Team EnforcementTeam 2

Admin. Penalty \$ Limit Minimum \$50 Maximum \$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$250

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

29% Enhancement

Subtotals 2, 3, & 7

\$72

Notes

The enhancement is due to one Notice of Violation ("NOV") with the same or similar violations as the current enforcement action, two dissimilar NOV's, and one prior Agreed Order containing a denial of liability.

Culpability

No

0% Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5

\$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

0% Enhancement*

Subtotal 6

\$0

 Total EB Amounts \$24
 Approx. Cost of Compliance \$500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal

\$322

OTHER FACTORS AS JUSTICE MAY REQUIRE

0%

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

\$322

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$322

DEFERRAL

20%

Reduction

Adjustment

-\$64

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$258

Screening Date 26-Oct-2007

Docket No. 2007-1758-PWS-E

PCW

Respondent City of Waco

Policy Revision 2 (September 2002)

Case ID No. 34873

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101384212

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 29%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The enhancement is due to one Notice of Violation ("NOV") with the same or similar violations as the current enforcement action, two dissimilar NOVs, and one prior Agreed Order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 29%

Screening Date 26-Oct-2007

Docket No. 2007-1758-PWS-E

PCW

Respondent City of Waco

Policy Revision 2 (September 2002)

Case ID No. 34873

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101384212

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.110(b)(4) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to maintain a free chlorine residual of 0.2 mg/L or 0.5 mg/L of chloramine throughout the distribution system at all times. Specifically, during the investigation on September 27, 2007, a field test conducted at 1225 Cherry Street revealed a free chlorine residual of 0.05 mg/L.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to maintain an adequate disinfectant concentration within the distribution system could result in the delivery of water to the public containing a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1

29 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$250

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$322

This violation Final Assessed Penalty (adjusted for limits) \$322

Economic Benefit Worksheet

Respondent City of Waco
Case ID No. 34873
Reg. Ent. Reference No. RN101384212
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$500	27-Sep-2007	31-May-2008	0.7	\$1	\$23	\$24
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to operate the disinfection equipment and increase chlorine dosage to maintain a minimum free chlorine residual of 0.2 mg/L. Date required is the investigation date. Final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$24

Compliance History

Customer/Respondent/Owner-Operator:	CN600131940	City of Waco	Classification: AVERAGE	Rating: 3.11
Regulated Entity:	RN101384212	CITY OF WACO	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1550008	
	WATER LICENSING	LICENSE	1550008	
Location:	425 FRANKLIN AVENUE, MCLENNAN COUNTY, TEXAS			
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	October 23, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 22, 2002 to October 22, 2007			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- N/A Effective Date: 09/21/2006 ADMINORDER 2006-0359-PWS-E
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(B)
- Description: Failed to properly house gas chlorination equipment and cylinders of chlorine in separate buildings or separate rooms with impervious walls or partitions separating all mechanical and electrical equipment from the chlorine facilities.
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(1)
- Description: Failed to properly install air release devices in the distribution system.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.42(m)
- Description: Failed to protect all water treatment plants with an intruder-resistant fence with lockable gates.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
- Description: Failed to provide operating reports and records for review during inspections.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)(A)
- Description: Failed to properly identify the compressed air line for the air scour backwash facilities.
- B. Any criminal convictions of the state of Texas and the federal government.
- N/A
- C. Chronic excessive emissions events.
- N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- 1 02/07/2003 (21604)
 - 2 08/29/2003 (35545)
 - 3 04/15/2004 (266818)
 - 4 07/19/2004 (275428)
 - 5 02/18/2005 (345566)
 - 6 09/30/2005 (374802)
 - 7 02/13/2006 (438164)
 - 8 04/04/2007 (539399)
 - 9 10/19/2007 (596151)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 07/16/2004 (275428)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)[G]

Description: Failure to prohibit water connections to establishments where an actual or potential contamination or system hazard exists without an air gap separation or an approved backflow prevention assembly between the Facility's system and the source of contamination including the failure to test and demonstrate test results of

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(B)

Description: Failure to provide housing for the gas chlorination equipment.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(1)

Description: Failure to properly install air release devices in such a manner as to preclude the possibility of submergence or possible entrance of contaminants and to cover all openings with screening.

Date: 02/17/2005 (345566)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)

Description: Failure to provide an intruder-resistant fence in order to protect the water storage tank.

Date: 08/07/2007 (570342)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)

Description: Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.2 mg/L free chlorine or 0.5 mg/L total chlorine as per agency regulations.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF WACO
RN101384212**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1758-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Waco ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a public water supply at 425 Franklin Avenue in Waco, McLennan County, Texas (the "Facility") that has approximately 65,916 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
3. The City received notice of the violations alleged in Section II ("Allegations") on or about October 24, 2007.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Three Hundred Twenty-Two Dollars (\$322) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Two Hundred Fifty-Eight Dollars (\$258) of the administrative penalty and Sixty-Four Dollars (\$64) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily

comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to maintain a free chlorine residual of 0.2 milligrams per liter ("mg/L") or 0.5 mg/L of chloramine throughout the distribution system at all times, in violation of 30 TEX. ADMIN. CODE § 290.110(b)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on September 27, 2007.

III. DENIALS

The City generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Waco, Docket No. 2007-1758-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the City shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, begin maintaining a minimum free chlorine residual of 0.2 mg/L or 0.5 mg/L of chloramine throughout the distribution system at all times, in accordance with 30 TEX. ADMIN. CODE § 290.110; and
 - b. Within 30 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Water Supply Section, Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed

Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. S. S.
For the Executive Director

3/21/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Richard B. Garrett
Signature

12-20-07
Date

RICHARD B. GARRETT P.E.
Name (Printed or typed)
Authorized Representative of
City of Waco

UTILITY DIRECTOR
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

